



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,172	10/24/2006	Jacobo Mugica Miguel	15053.0016USWO	7642
23552	7590	12/27/2007		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER NGUYEN, TAM M	
			ART UNIT	PAPER NUMBER
			3764	
			MAIL DATE	DELIVERY MODE
			12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/554,172	Applicant(s) MUGICA MIGUEL ET AL. CT	
	Examiner Tam Nguyen	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

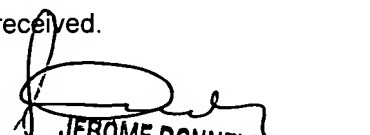
Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10-21-05 & 9-19-07 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10-21-05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "auxiliary framing" and the "rolling systems" of claims 6 and 7 must be shown or the feature(s) canceled from the claim(s). Examiner acknowledges that applicant has added Figures 4 and 5 to show these items schematically, but the Figures do not adequately show the items in their entirety and do not show how the items are particularly coupled to the framework. Claims 6 and 7 will be examined according to the brief disclosure of their functions as given in the specification and/or claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

In the Abstract, in line 2, is the phrase "the bicycle". It should be replaced by --a bicycle--.

In Page 3, on line 22, the phrase, "through which the support is assembled in the guides 3" appears to be incorrect since it is the guides that are assembled in the support.

In Page 3, on lines 24 and 25, the term --cross-- should be inserted between "circular" and "section" to clarify the subject matter.

Appropriate correction is required.

Claim Objections

3. Claims 1, 2 and 4 are objected to because of the following informalities:

In claim 1, on line 6, is the phrase "which platform". It should be changed to --the platform-- for improved clarity.

In claim 2, the language of lines 3-4 is unclear. In particular, the phrase "through which said parallel through bores platform is assembled on said transverse bars" is confusing.

Applicant should clearly disclose that the transverse bars are slidably received into the bores of the support member to support the support member on the framework.

In claim 4, on lines 1-2, the phrase "wherein having" is not clear. It should be replaced by --further comprising--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With regard to claim 1, the specification does not disclose how a servomechanism controls or is coupled to the elastically deformable anchoring system. Furthermore, the elastically deformable anchoring system is merely shown as element "6" in the drawings with little indication as to its form. The specification merely suggests possible forms such as silent blocks, shock absorbers or springs. However, this disclosure still does not describe how such an anchoring system would be controlled by a servomotor; thus the limitation will not be given patentable weight in order to expedite the prosecution.

With regard to claim 4, the specification does not disclose how "any situation of the road" is reproduced. For example, how are bumps in the road reproduced? Claims 2-8 are also rejected for being dependent on a rejected base claim.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 4, 5 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. Claim 2 recites the limitation "the shaft" in line 2, Claim 5 recites "the movement" in line 2 and "the minimum features" in line 3 and Claim 8 recites "the pedal set casing" in line 2. There is insufficient antecedent basis for these limitations in the claims. As for claim 2, examiner will assume that the shaft refers to the vertical column of claim 1 to expedite the prosecution. As for claim 5, it is not clear which movement is being referred to, the movement of the platform or the movement of the bicycle. The examiner will assume that "the movement" refers to movement of the platform on the guides. As for claim 8, examiner will assume that "the pedal set casing" is part of the bicycle to expedite the prosecution. As for claim 4, the phrase "which allows for reproducing any situation of the road" is indefinite since it is not clear what is meant by the phrase "any situation of the road".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Defaux '651.

6. As to claims 1, 3 and 8, Defaux discloses a training bench having a framework (30) with two or more longitudinal bars, rotational rollers (31,31A) located between the bars, and a central support that includes a platform (35) assembled on the framework through transverse bars (35) on which it can move in a free or regulated manner, serves

as a holding base for a vertical column and provides a support means for the frame of the bicycle on it free end wherein the anchoring system acts as an absorption member to control the movement of a bicycle coupled to the platform and framework and the central support is connected to the pedal set casing of the bicycle (see Figs. 1 & 9).

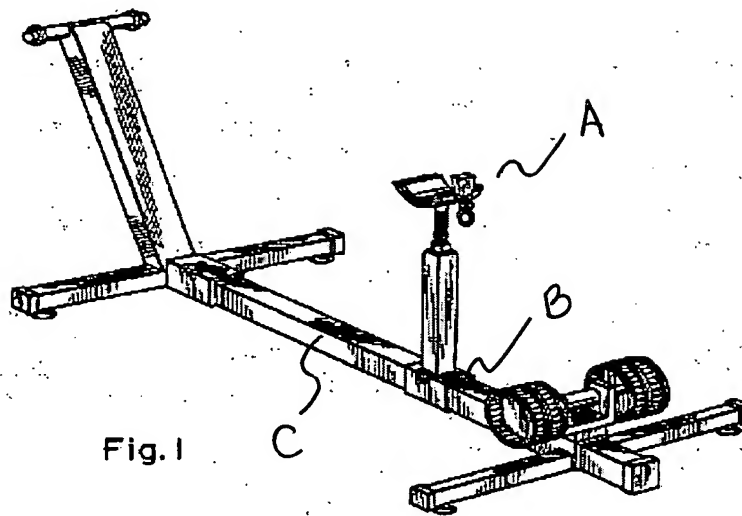
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeFaux in view of Byrne (D273,882).

7. As to claim 2, Defaux discloses a training bench as described above (see discussion of claim 1). Defaux does not disclose that the platform has one or more parallel through bores fore receiving the transverse bars to allow the platform to slide thereon. Byrne discloses a bicycle trainer having a platform (A) with one or more through bores (B) in a frame for receving a bar (C) to allow the platform to side thereon (see Fig. 1 below). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute DeFaux's platform and transverse bar (35,37) interface means with a pair of frames and bores as disclosed by Byrne to simplify the coupling means between the bicycle and the training bench so as to require less material to manufacture.



Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeFaux in view of Ewert '243.

8. As to claim 4, Defaux discloses a training bench as described above (see discussion of claim 1). Defaux does not disclose a computerized motor brake system in the rollers to provide for adjustable resistance. Ewert discloses a bicycle trainer a computerized motor brake system in a roller (42) (see Fig. 1 & Col. 6, lines 40-50). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Ewert's motor brake system with a roller of Defaux's bench to provide the user with an adjustable braking means for replicating road conditions such as an incline.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeFaux in view of Yamasaki et al. '382.

9. As to claim 5, Defaux discloses a training bench as described above (see discussion of claim 1). Defaux does not disclose that the movement of the central platform on the transverse guides are controlled by computerized servomechanisms.

Yamasaki et al. disclose a riding simulation system that utilizes a computerized servomechanism/motor ((190) for moving components of the system to simulate riding (see Col. 18, line 59- Col. 19, line 2). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Yamasaki's computerized servomechanism with Defaux's training bench such that the mechanism could be programmed to move the platform along the transverse bars to simulate lateral pedaling forces during exercise to provide the user with a more realistic outdoor cycling simulation experience.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeFaux in view of Tabb '597.

10. As to claim 6, Defaux discloses a training bench as described above (see discussion of claim 1). Defaux does not disclose an auxiliary frame. Tabb discloses a similar bicycle trainer having an auxiliary frame (60) (see Figs. 1 & 2). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Tabb's auxiliary frame with Defaux's bench to facilitate the user getting on and off the bicycle and thus the bench by supporting the user and gripping his shoes while he mounts and dismounts from the bicycle.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeFaux in view of Smith '737.

11. As to claim 7, Defaux discloses a training bench as described above (see discussion of claim 1). Defaux does not disclose a side rolling system. Smith discloses a similar bicycle trainer having a side rolling system (40) (see Figs. 1 & 2). At the time of

the invention, it would have been obvious to a person of ordinary skill in the art to combine Smith's side rolling system with Defaux's bench to keep a bicycle from moving to far to the edges of the rollers during exercise.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoffenberg '600 discloses the use of servomotors in controlling the resistance during exercise.

Berkes' 265 and Greenleaf '009 are representative of the prior art that discloses auxiliary framing to bicycle trainers.

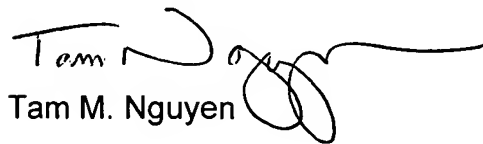
Dorner '750 and Ruf '233 are representative of exercise devices in the prior art having platforms with bores for receiving one or more parallel bars to allow the platforms to slide thereon.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on 571-272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 19, 2007


Tam M. Nguyen

JEROME DONNELLY
PRIMARY EXAMINER

